IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

W.P(C).No. 34795 of 2007-(P)

PETITIONER:

ZEENATH BASHEER @ ZEENATH SEERE
VALAPPIL, D/O. MAMI HAJI, THACHARAKKAL
PUTHUKKUDI, ZUHARA MANZIL, PUTHIYAVALAPPIL,
PUTHIYANGADI, MADAYI POST, KANNUR DISTRICT.

BY ADV. SRI.B.PREMNATH (E)

RESPONDENTS:
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1. **UNION OF INDIA, REPRESENTED BY**
   THE SECRETARY TO GOVERNMENT, MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.

2. **THE CHIEF PASSPORT OFFICER,**
   MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.

3. **THE REGIONAL PASSPORT OFFICER,**
   REGIONAL PASSPORT OFFICE, CALICUT.

BY ASST. SG, SRI.P. PARAMESWARAN NAIR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 34795 OF 2007 - P
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Dated this the 27th November, 2007.

J U D G M E N T

Petitioner had applied for issuance of a passport and Exts. P1 and P2, which were produced by the petitioner to prove of her date of birth and these documents showed different dates. Thereupon, the passport authority issued Ext.P3 requiring the petitioner to furnish information regarding the discrepancy in dates. At that stage, petitioner filed Ext.P4 application (CMP No.5120/07) before the Judicial First Class Magistrate Court, Payyannur, for an order to the effect that the date of birth of the petitioner shown in Ext.P1 is the correct one. It is in view of the delay in passing orders on Ext.P4, that this writ petition has been filed praying for directing the Judicial First class Magistrate to pass orders on Ext.P4.

2. The Ministry of External Affairs (PV-1 Section) have issued circular dated 29th October, 2007, which governs the change of date of birth and place of birth in passports. Clause (d) thereof being relevant for the

particular case, it is extracted below for reference:

> "Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e. School/ educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., Municipal authorities etc, resulting in conflicting documents for valid proof, the PIA should direct the applicant to procure an order from a First Class Judicial Magistrate, to effect the change as per Passport Manual 2001 (In some States, this function is discharged by Civil Magistrates)".

Standing counsel fro the respondent would submit that since the documents produced by the petitioner contains different dates of birth, unless the petitioner produces an order from the Judicial Magistrate as required, in the aforesaid background, they will not be in a position to consider the request of the petitioner.

3. In view of the above, although the circular deals in the correction of date of birth in passport only, it is evident that unless orders are obtained on Ext.P4 application made by the petitioner, the case of the petitioner will not be considered for issuance of passport. If that be so, expeditious orders on Ext.P4 is necessary.

4. Therefore, I dispose of this writ petition directing that the Judicial Magistrate of First Class,

Payyannur shall take up and consider Ext.P4 (C.M.P. No.5120/07), as expeditiously as possible, at any rate within four weeks on production of a copy of this judgment.

ANTONY DOMINIC
JUDGE

Rp/-